

antisecretory protein, or an oligo or polypeptide derivatives thereof, comprising Formula I to said patient, isolating and propagating the isolated stem cell in vitro, and transplanting said propagated cells into the same or another patient; or

Group VI: Claim 39, drawn to a method of propagating, inducing and/or maintaining the genesis of an isolated stem cell progeny from a germinal layer from a patient, comprising isolating said cell or stem cell progeny from the patient, administering an effective amount of an antisecretory protein, or an oligo or polypeptide derivatives thereof, comprising Formula 1 to said isolated cells and propagating the cells in vitro, and transplanting said propagated cells into the same or another patient.

Applicants respectfully traverse this Restriction Requirement. Moreover, Applicants respectfully assert that the inventions of Groups I-VI should properly be examined together.

Applicants submit that the inventions of Groups I-VI are closely related and that a proper search of any of the claims should, by necessity, require a proper search of the others. Thus, Applicants submit that all of the claims can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained.

Applicants submit that any nominal burden placed upon the Examiner to search accordingly to determine the art relevant to Applicants' overall invention is significantly outweighed by the public's interest in not having to obtain and study many separate patents in order to have available all of the issued patent claims covering Applicants' invention. The alternative is to proceed with the filing of numerous applications, each consisting of generally the same disclosure, and each being subjected to essentially the same search, perhaps by different Examiners on different occasions. This process would place an unnecessary burden on both the Patent and Trademark Office and on the Applicants.

Regardless of whether the six groups are independent or distinct, Applicants respectfully assert that the Examiner need not have restricted the application. M.P.E.P. § 803 requires that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Therefore, it is not mandatory to make a restriction requirement in all situations where it would be deemed proper.

In the interest of economy, for the Office, for the public-at-large, and for Applicants, reconsideration and withdrawal of the restriction requirement are requested.

Nevertheless, in order to advance prosecution and as required under 37 C.F.R. § 1.143, Applicants hereby elect, with traverse, Group IV (*i.e.*, claims 23-35, 41 and 42).

In addition, the Examiner has required election of species for prosecution on the merits, as follows:

- A) Loss or Gain of Cell type/nervous tissue
- B) Conditions
 - (i) Caused by *damage* to the central nervous system (CNS)
 - (ii) Caused by a *defect* to the CNS
- C) Conditions caused by *damage* to the CNS
 - (i) axonal damage caused by concussion, contusion;
 - (ii) axonal damage caused by head trauma;
 - (iii) axonal damage caused by small vessel disease in the CNS; and/or
 - (iv) damage to the spinal cord after disease and/or trauma.
- D) Conditions caused by a *defect* to the CNS
 - memory loss, multiple sclerosis, asphyxia, hypoxic injury, ischemic injury, traumatic injury, Parkinson's disease, Alzheimer's disease, stroke, or demyelinating disorder.

Applicants elect the following species with traverse and for the purposes of searching *only*.

In A), Applicants elect loss of nervous tissue. With regard to cell type, Applicants hereby elect the cells from the central nervous system in claim 26, neural stem cells in claim 27, oligodendroglial cells in claim 28, and cholinergic neuronal cells in claim 29.

In B), Applicants elect conditions caused by *damage* to the central nervous system.

In C), Applicants elect axonal damage caused by head trauma.

Finally, as Applicants have elected "conditions caused by *damage* to the central nervous system" and not "conditions caused by a *defect* to the central nervous system", a specific condition in D) need not be elected as indicated by the Examiner at page 6 of Species Election Requirement.

Applicants have no intention of abandoning any non-elected subject matter and should it be necessary, Applicants expressly reserve the right to file one or more continuation and/or divisional application(s) directed to non-elected subject matter.

The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

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